



Rural Municipality of West River Council Meeting Minutes

Meeting No	2023-05	Time	7:00 PM
Session	Regular - Public	Date	Thursday, May 25, 2023
Chair	Helen Smith-MacPhail - Mayor	Location	Afton Community Centre
Adoption status	Approved	Contact Person	Laala Jahanshahloo - CAO
Attendance	Mayor Helen Smith-MacPhail, Deputy Mayor Aaron MacEachern, Councillor Ryan Roggeveen, Councillor Lillian MacCannell, Councillor Shaun MacArthur, Councillor Steve Pollard, Laala Jahanshahloo – CAO		
Regret	Councillor John Yeo		
Guest	Nil		

- **Call to Order**

Mayor Helen Smith-MacPhail called the meeting to order at 7:05 PM.

Deputy Mayor Aaron MacEachern joined the meeting virtually.

- **Adoption & Approval of Agenda**

The agenda was approved as circulated. It was moved by Councillor Shaun MacArthur and, seconded by Councillor Lillian MacCannell, unanimously carried.

- **Declarations of Conflict of Interest**

Mayor Helen Smith-MacPhail recused herself from item FIN. 2023.5.2, citing a conflict of interest as one of the vendors is the Mayor's husband's business.

- **Delegations & Public Input**

Nil.

- **Adoption of Previous Meeting's Minutes**

The minutes of the April 27, 2023, Council Meeting were approved as circulated. It was moved by Councillor Steve Pollard and, seconded by Councillor Ryan Roggeveen, unanimously carried.

The minutes of the May 11, 2023, Committee of Council Meeting were approved as circulated. It was moved by Councillor Shaun MacArthur and, seconded by Councillor Lillian MacCannell, unanimously carried.

- **Discussion Items**

- **FIN.2023.5.1 - Bonshaw Community Center Improvement Project- Change Orders #11**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-40

Moved by Councillor Shaun MacArthur and **Seconded by** Councillor Ryan Roggeveen

WHEREAS

Motion #2023-25 approved increasing the Capital Budget for the Bonshaw Community Centre Improvement Project of April 1, 2022-March 31, 2023, to \$540,000, and

WHEREAS

Pursuant to Motion #2021-55, the project admin approved the change order No. 11, and,

WHEREAS

This resolution bears the recommendation of the Committee of the Whole as discussed at a meeting held on May 11, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River accepts adding the attached Change Orders (Appendix A, attached hereto, forming a part of this resolution) at the cost of \$4,500.00, plus HST to the Bonshaw Community Cultural Center Improvement Project signed contract and authorizes the CAO to execute it.

▪ **FIN.2023.5.2 - Mutter Park Survey - Fiona Recovery**

Important Note:

As Mayor Helen Smith-MacPhail declared her conflict of interest and recused herself from this item, she left the meeting before the Deputy Mayor (Chair) obtained the floor and joined the meeting after the vote was taken.

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-41

Moved by Councillor Steve Pollard and **Seconded by** Councillor Lillian MacCannell

WHEREAS

Pursuant to Motion#2023-10 to prepare the tender documents for the clean-up and reforestation of Mutter Park as a part of the Fiona Recovery initiative, and

WHEREAS

Finding or replacing all survey markers is required to ensure the Municipality is not transposing on neighbouring properties or leaving out any area of PID 227306, and

WHEREAS

This resolution bears the recommendation of the Committee of the Whole as discussed at a meeting held on May 11, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River accepts the proposal for Mutter Park (PID#227306) legal boundary survey from Derek French Professional Services Inc. at the cost of \$9,900.00, plus HST, to provide the following services and authorizes the CAO to execute it:

- Completion of a legal boundary survey to include a digital survey dwg file indicating site boundaries/ elevations.
- Marking the property lines with (30) metal T-bars (6-foot long) and pink flags.
- Clearing the "line of site" along the property line for a minimum of 3 feet wide.
- Finding or replacing all survey markers (approximately 14) for each property corner.

- Prepare a legal survey plan.
- Provide six paper copies of the plan.
- Register a copy of the plan at the Queens County Registry of Deeds.

▪ **FIN.2023.5.3 - Mutter Park - Storage Shed**

Important Note:

There is no conflict of interest between Councillor Steve Pollard, and the vendor awarded the contract according to Conflict of Interest Bylaw # 2021-03.

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-42

Moved by Councillor Steve Pollard and **Seconded by** Councillor Lillian MacCannell

WHEREAS

The Soccer Fields in Mutter Park will be operational for the first time after the completion of the Gas Tax Project (57.1.1) on March 2022 for the 2023 season, and

WHEREAS

Building storage was part of the original concept plan prepared by CBIC (Appendix A, attached hereto, forming a part of this resolution), which was omitted from the tender for the Gas Tax Project (57.1.1) (Appendix B, attached hereto, forming a part of this resolution), and

WHEREAS

This resolution bears the recommendation of the Committee of the Whole as discussed at a meeting held on May 11, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River accepts the proposal from Sterling Pollard to build a storage shed for Mutter Park at the cost of \$6,000.00, plus HST, with the following specification and authorizes the CAO to execute it:

- Building a Shed 10' by 12'

- All Building materials and Vinyl siding
- 36" steel door

▪ **FIN.2023.5.4 - Afton Community Hall Expansion - HoldBack Release**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-43

Moved by Councillor Shaun MacArthur and **Seconded by** Councillor Lillian MacCannell

WHEREAS

According to Motion #2021-41, E.F. MacPhee Construction LTD was awarded the contract of the Community of Afton Recreation Center Addition (Gas Tax Project 27.1.1) a fixed-price contract at the cost of \$ 231,632.00 plus HST, and

WHEREAS

Pursuant to Motion #2021-40, the Rural Municipality of West River hired a Project Manager to provide administrative services for this project, and

WHEREAS

The Project Manager provided the Certificate of Substantial Performance (Appendix A, attached hereto, forming a part of this resolution) on February 15, 2023, and

WHEREAS

The Project Manager received the CCDC 9B form (Appendix B, attached hereto, forming a part of this resolution) from the contractor on April 15, 2023, and

WHEREAS

The Project Manager provided the Certificate for Payment Holdback Release (Appendix C, attached hereto, forming a part of this resolution) on May 24, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River approves the release of the holdback of the contract under Motion #2021-41 and authorizes the CAO to execute it.

- **FIN.2023.5.5 - Gas Tax Fund Transfer Request**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-44

Moved by Councillor Steve Pollard and **Seconded by** Councillor Lillian MacCannell

WHEREAS

The Soccer Fields in Mutter Park will be operational for the first time after the completion of the Gas Tax Project (57.1.1) on March 2022 for the 2023 season, and

WHEREAS

The Rural Municipality of West River's CCBF funding is fully committed, and

WHEREAS

To balance the reconciliation between all four actives 58.1.1, 27.1.1, 32.1.1, and 57.1.1 projects,

BE IT RESOLVED

The Council for the Rural Municipality of West River authorizes the Chief Administrative Officer to request the PEI Infrastructure Secretariat to transfer \$19,251.65 from the Mutter Park Upgrade Project (57.1.1) to Bonshaw Community Cultural Center Upgrades Project.

- **EVT.2023.5.1 - Event Committee Appointment**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-45

Moved by Councillor Lillian MacCannell and **Seconded by** Councillor Shaun MacArthur

WHEREAS

Under the Municipal Government Act Section (2) (e) (iii), it is the duty of the Council to appoint persons to committees of the Council, and

WHEREAS

Following the Municipal Government Act Section (90) (1), the Mayor is a member of each Committee established under Motion#2023-02 with the right to vote per Municipal Government Act Section (90) (2),

BE IT RESOLVED

The Council of Rural Municipality of West River approves the Event Committee appointments as follows:

- Mayor Helen Smith-MacPhail (Chair)
- Councillor Lillian MacCannell (Member)
- Councillor Shaun MacArthur (Member)

▪ **PLB.2023.5.1 - Development Permit Extension - W-21-04**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-46

Moved by Councillor Steve Pollard and **Seconded by** Councillor Shaun MacArthur

WHEREAS

According to Municipality of New Haven - Riverdale Zoning & Subdivision Control (Development) Bylaw, Section (4.4), Development Permit, a development permit shall be valid for twelve months, or as additional time as may be authorized by Council, and

WHEREAS

This resolution bears the recommendation of the Committee of the Whole as discussed at a meeting held on May 11, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River approves the extension of the development permit extension issued for PID# 1129816 according to Motion#2021 -127 and modified by the Development Officer (Appendix A, attached hereto, forming a part of this minutes) for 12 Months after the issuance date and authorized the Development Officer to execute it.

- **PLB.2023.5.2 - Mayor's Letter to Minister Rob Lantz**

Decision Type: Action

Status: Motion Carried (5-0)

Background: PLB.23.4.1, PLB.23.02.2

Description:

The Council approved responding to the review of the Municipality's OP&LUB by a letter (Appendix 5.1, attached hereto, forming a part of this resolution) addressed to the Minister of Housing, Land and Communities.

Moved by Councillor Shaun MacArthur and **Seconded by** Deputy Mayor Aaron MacEachern

- **PLB.2023.5.3 - Enforcement Officer Bylaw (Bylaw#2023-01) - First Reading**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-47

Moved by Councillor Shaun MacArthur and **Seconded by** Councillor Lillian MacCannell

WHEREAS

To comply with the Municipal Government Act section (227) (e) of the Contravention of a bylaw made under the Municipal Government Act section (226) (3), and

WHEREAS

According to Motion#2022-06, preparing an Enforcement Officers Bylaw was added to the original contract of the Official Plan and Land Use Bylaw project contract with SJ Murphy Planning & Consulting, and

WHEREAS

This resolution bears the recommendation of the Planning Board Committee as discussed at a meeting held on May 15, 2023,

BE IT RESOLVED

That the Rural Municipality of West River Bylaw number # 2023-01, Enforcement Officers Bylaw, be read and approved a first time.

- **PLB.2023.5.4 - Excavation Pit Administration Add-on**

Decision Type: Action

Status: Motion Carried (5-0)

Description: Motion 2023-48

Moved by Councillor Shaun MacArthur and **Seconded by** Councillor Lillian MacCannell

WHEREAS

According to the Environmental Protection Act Chapter E-9, Excavation Pits Regulations Section (2) (A), these regulations apply to the design, development, operation, and restoration of all excavation pits except an excavation pit (a) located within the boundaries of any municipality which has enacted bylaws to regulate excavation pits, and

WHEREAS

According to the adopted Land Use Bylaw, Bylaw # 2022-04, Schedule G of the Rural Municipality of West River Land Use Bylaw regulated the Excavation Pits, and

WHEREAS

This resolution bears the recommendation of the Planning Board Committee as discussed at a meeting held on May 15, 2023,

BE IT RESOLVED

The Council for the Rural Municipality of West River accepts the proposed add-on component for the Excavation Pit Administration (Appendix A, attached hereto, forming a part of these minutes) to the Official Plan and Land Use Bylaw project contract with SJ Murphy Planning & Consulting (Motion#2021-37) at the cost of \$8,301.56 HST included and authorized the CAO to execute it.

- **OTR.2023.5.1 - Mayor's Letter to Minister Steven Myers**

Decision Type: Action

Status: Motion Carried (5-0)

Background: WRC#14, OTR.23.4.3

Description:

The Council approved sending a letter (Appendix 5.2, attached hereto, forming a part of this resolution) to the Minister of Environment, Energy and Climate Action regarding the Unsightly Property on Rte. 19.

Moved by Deputy Mayor Aaron MacEachern and **Seconded by** Councillor Lillian MacCannell

- **Informational Items**

- **FIN.2023.5.4 - Bank Accounts Report as of April 30, 2023**

Decision Type: Information

Status: Received

Description:

The Council reviewed the Bank Accounts Reconciliation Report as of April 30, 2023.

- **PLB.2023.5.4 - Report of PLB Committee Meeting of May 15, 2023**

Decision Type: Information

Status: Received

Background:

Motion#2023-22

Description:

Mayor Helen Smith-MacPhail noted that the Planning Board Committee met on May 15, 2023, and presented a summary of the meeting's report.

- **OTR.2023.5.2 - FPIEM - Board Meeting Report**

Decision Type: Information

Status: Received

Description:

The Mayor attended the May 18, 2023, Board of Directors meeting. The main discussions included the following topics:

- Election of Vice-Presidents
- Board vacancies
- Provincial election and key policies overview
- RCMP retroactive costs
- Policy Committee appointment
- Premier's Action Committee on Family Violence Prevention
- Nominate FPEIM representative.
- Approve amended policy.
- Discuss the possibility of holding a meeting with the new Minister of Housing, Land.

▪ **OTR.2023.5.3 - Report of RMWR's Liaison to Afton Community Center BOD**

Decision Type: Information

Status: Received

Description:

On May 16, 2023, Mayor Helen Smith-MacPhail attended the Afton Community Centre BOD meeting to discuss a collaboration plan and possible way forward. The Mayor briefed the Council about combining the Afton and Bonshaw Board of Directors into one Community Services Committee. This Committee would take care of the two Community Centres and all the events, programming, hosting and facilitate involvement with other volunteers within the community. This would save money simultaneously; both facilities will keep their non-profit status. Drafting a new Letter of Patent may be required for each or both community centers.

▪ **OTR.2023.5.4 - Report of RMWR's Liaison to Bonshaw Community Center BOD**

Decision Type: Information

Status: Received

Background:

Motion#2023-12

Description:

Councillor Shaun MacArthur has not heard from the Bonshaw Board of Directors.

- **Adjournment**

- Councillor Shaun MacArthur motioned to adjourn the meeting at 8:30 PM.
- The next meeting will be on June 22, 2023.

Helen Smith-MacPhail

Laala Jahanshahloo

Mayor _____

Chief Administrative Officer _____

Appendix A - Motion 2023-40

Standard Construction Document CCDC 2 2020

CHANGE ORDER

Work: "Bonshaw Community Center Improvements", 25 Green Road, Bonshaw,
PEI PID 402917, for the Rural Municipality of West River.
title and location

Change Order No.: 11

Date: May, 2023

Reference: Contract CCDC 2 2020

Consultant: W. D. Lawrence Architecture Inc.

Owner: Rural Municipality of West River

Contractor: Ridgeline Construction Ltd

Pursuant to paragraph 6.2.2 of GC 6.2 – CHANGE ORDER in CCDC 2 – 2020, the following is an amendment to the *Contract* stating the agreement between the *Owner* and the *Contractor* upon a change in the *Work* and the adjustments in the *Contract Price* and *Contract Time*.

Description:

Amount of original Contract	\$	272,941.00
CO #1: Doors/hardware	\$	57,394.00
CO #2: Drywall	\$	59,000.00
CO #3: Rebuild main entry	\$	22,600.00
CO #4: Add ramp	\$	101,050.00
CO #5: Add shower	\$	26,550.00
CO #6: Add generator (pending, not yet approved)	(-) \$	87,300.00
CO #7: Add well pump	\$	2,700.00
CO #8: Painting	\$	35,000.00
Sub-total to C.O.#8	\$	577,235.00
CO #9: (Approved by Appendix 'A' Motion #2023-31)		
1. Interior finish	\$	55,465.00
2. Flooring/stairs	\$	24,800.00
3. Kitchen millwork	\$	20,800.00
1. Kitchen materials increase	\$	2,837.56
4. Drywall materials increase	\$	906.36

Appendix A (Continued)- Motion 2023-40

Standard Construction Document CCDC 2 2020

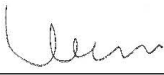
Page 2

5.	Ramp materials increase	\$	3,250.00
6.	Insurance extension increase	\$	5,006.10
7.	Add exterior lighting at main entry + deck at rear of building (this C.O. #11)		
8.	Replace gutters and downspouts	\$	5,400.00
9.	Credit sold used items	(-) \$	820.00
	Sub-total C.O.#9	\$	117,645.02
CO #10: Asphalt parking lot		\$	57,500.00
	1. Asphalt increase	\$	15,356.00
	Total (pending, not yet approved)	\$	72,856.00
	Previously Revised Contract amount	\$	694,880.02
CO #11: Supply and install 2 lights on the front soffit with photo cell, 1 exterior light on the rear with photo cell, interior patching and painting repair		\$	4,500.00
	Revised Contract amount	\$	<u>699,380.02</u>

The contingency allowance is increased/decreased by the sum of \$ N/A
 The *Contract Price* is increased by the sum of \$ **4,500.00**
 The *Contract Time* is increased/decreased by 0 Working Days

Recommended by the Consultant

Wil Lawrence, Principal WDLA
name and title of person signing


signature

May, 2023
date

Approved by the Owner

Laala Jahanshahloo - CAO
name and title of person signing


signature

May 25, 2023
date

Approved by the Contractor

Ridgeline Construction Ltd.
name and title of person signing


signature

May 01 23
date

Appendix A- Motion 2023-43



Certificate of Substantial Performance

Date of Inspection: February 15, 2023

Project: Afton Community Hall Renovation/Addition, New Dominion, PEI,

Contractor: E.F. MacPhee

Owner: Rural Municipality of West River

With Item number 1 on Change Order number one (Re: VCT flooring) separated from this contract and to be executed under its own contract, I hereby certify on behalf of the Owner and on the basis of an inspection conducted on the above date, that the Renovation/Addition in New Dominion, Prince Edward Island has achieved Substantial Performance of the Construction documents as of February 15, 2023

The date of this Certificate shall be the commencement of the period for registration of mechanics' liens. The Contractor and his Sub consultants shall continue to work towards total completion of the contract during this period. Provided no liens are registered, holdback monies, less an amount to ensure completion of the work in accordance with above, are due and payable one day after termination of this period.

The issuance of this Certificate does not release the Owner, Contractor or any Subcontractor from the duty of completing the work pursuant to the terms of the contract, the National Building Code, and all applicable bylaws and regulations.



Respectfully submitted,

A handwritten signature in blue ink that reads 'Chris Jette'.

Christopher Jette, architect (M.Arch., MAAPEI, MAANB, MRAIC)

architecture 360

45 Harrington Lane

Rice Point

PEI

COA 1H6

Appendix B- Motion 2023-43

**Statutory Declaration
of Progress Payment Distribution by Subcontractor**

Standard Construction Document
CCDC 9B – 2018

To be made by the Subcontractor as a condition for either
 second and subsequent progress payments; or
 release of holdback.

Application for payment number _____
dated _____ is the last
application for payment for which the Subcontractor has
received payment.

Information Appearing in the Subcontract Documents

Name of Project
Afton Community Centre - Addition / Renovation

Date of Subcontract: April 9, 2021

Name of Contractor
Architecture 360 Inc.

Name of Subcontractor
E.F. MacPhee Construction Ltd.


Declaration



I solemnly declare that, as of the date of this declaration, I am an authorized signing officer, partner or sole proprietor of the Subcontractor, and as such have authority to bind the Subcontractor, and have personal knowledge of the fact that all accounts for labour, sub-subcontracts, products, services, and construction machinery and equipment which have been incurred directly by the Subcontractor in the performance of the work as required by the subcontract, and for which the Contractor might in any way be held responsible, have been paid in full as required by the subcontract up to and including the latest progress payment received, as identified above, except for:
1) holdback monies properly retained,
2) payments deferred by agreement, or
3) payment withheld by reason of legitimate dispute which has been identified to the party or parties from whom payment has been withheld.

I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me in Bonshaw, PE this 13 day of April in the year 2023
City/Town and Province

Sean MacPhee
Name
Secretary
Title


Signature



(A Commissioner for Oaths, Notary Public, Justice of the Peace, etc.)

The making of a false or fraudulent declaration is a contravention of the Criminal Code of Canada, and could carry, upon conviction, penalties including fines or imprisonment.

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Appendix A- Motion 2023-46



May 9, 2022

Kathy and Trevor Lank
108 Charles Lane
New Haven PE C0A 1H3

Via Email: kathyandtrevorlank@gmail.com

File No. W-21-04 - 345 Churchill Road, New Haven - PID 1129816

Dear Trevor and Kathy Lank

As per your request to alter the condition with respect to the five Geodesic domes to permit the flexibility to erect geodesic domes or wooden buildings, the modification to the conditions are approved as follows:

Development Permit W-21-04 issued on May 3, 2022 is hereby modified by changing condition b) by deleting the wording and replacing it with the following:

- b) Five (5) Geodesic domes or a possible combination of wooden buildings and/or geodesic domes in the locations shown as structures 2 through 6 on Appendix "A" as single unit tourist accommodation containing a bedroom, bath and a kitchen on 40 ft. by 40 ft. platforms;

All other matters remain unchanged.

Regards,

A handwritten signature in black ink, appearing to read 'Robert Griffiths'.

Robert Griffiths
Development Officer
RG Professional Planning Services

cc Laala Jahanshahloo, Chief Administrative Officer

1552-B Rte. 19, New Dominion, PE C0A 1H6 - 902-675-7000

westriverpe.ca

Appendix 5.1



May 25, 2023

Dear Minister Lantz,

Thank you for the opportunity to meet on May 9th to discuss next steps with regards to provincial approval of the Rural Municipality of West River's Official Plan and Land Use Bylaw. At the meeting, a verbal statement was provided that the Province would not be requiring the Municipality to make any amendments to the Official Plan or Land Use Bylaw prior to ministerial approval; we are seeking confirmation that this is in fact the Province's position.

That being said, we feel it important to formally address matters raised in a letter dated May 3, 2023 that was provided to us at the meeting on May 9th. As the May 9th discussion, the most recent interaction regarding this matter, was held with you, we are directing our response to the letter to you. Our position with regards to the various items raised in the May 3rd letter are as follows:

1. Areas of Provincial Interest:

- In the letter provided, the Province made a statement regarding identified 'issues' relating to how the Bylaw meets certain areas of provincial interest. To the best of our knowledge, no explanation has been given as to how the Official Plan and Bylaw fail to meet those outlined areas of provincial interest in relation to any standard articulated by the Province.
- We question whether these matters would have been raised as issues if the Municipality had simply determined to adopt the Province's standard as established in the Subdivision and Development Regulations. As both a regulatory body and a

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Appendix 5.1 (Continued)



planning authority, the Province may set minimum provincial standards designed to meet and protect the provincial interests outlined in the *Planning Act*, as well as provide guidance to municipal planning authorities as to how those new areas of provincial interest will be measured and interpreted. The Province would also be expected to provide leadership in how those interests would be protected and it would presumably be reasonable to conclude that the Subdivision and Development Regulations therefore represent a suitable approach to meeting those interests, notwithstanding that they do not, with one exception, apply within municipalities that have adopted official plans and bylaws. As our Official Plan and Bylaw meet or are more stringent than provincial requirements and are fully policy-based, in contrast to the provincial approach to regulating land, we are comfortable that we have met any standard established by the Minister and the Act.

- Further, we are not in receipt of any communication from the Province relating to the municipal role in meeting the new areas of provincial interest assigned to the Minister in the *Planning Act* and therefore reiterate our position that the Province has over-reached in applying a standard that has not yet been communicated or supported through measurable policy statements to planning documents that were completed in accordance with the Act and regulations.
- In the interest of full transparency, however, please see the attached Appendix A listing the Official Plan policies, supported by plan actions, that reflect the identified areas of provincial interest and that are implemented through the Land Use Bylaw.

2. Waiver for Areas Subject to Coastal Flooding

- Regarding our approach to regulating lands in projected coastal floodplains identified in provincial data, we note that the Province has not yet taken any steps to regulate such areas and simply provides a caution in letters of approval and permits.

Appendix 5.1 (Continued)



In the absence of such provincial regulation, other departments within the provincial government have indicated that they are pleased to work with municipalities in developing solutions that go above and beyond the Province's standard for these types of hazards.

- The vertical setbacks approach in our Official Plan and Bylaw is an example of an attempt to address a known and growing public health and safety hazard. In the process of reviewing the standards we were proposing, concerns were raised regarding the possibility that a subset of any properties flagged as being subject to coastal floodplain hazards might have acquired a vested interest in the ability to be developed, based on how they were originally approved and any conditions or lack thereof placed on those lots upon approval. The legacy land policy approach was therefore developed, including a liability waiver.
- While we understand that the Province has identified concerns regarding the possibility of shortcomings with the Municipality's approach, it is also our understanding that the Province has not, to date, entered into a process of evaluating the legal enforceability of municipal plans and bylaws to the extent of providing legal advice to an outside body, in this case the Municipality. The Province has historically left those matters to the municipality in question to ensure due diligence has been taken.
- Our consultant has consulted with a subject matter expert on this approach, who drafted the legacy lands components of the Municipality's approach to coastal floodplain regulation based on their research and analysis of cases across the country and the impacts of waivers and choices made regarding regulating activities in known hazard areas. This approach attempts to find a middle ground for properties that would otherwise be fully undevelopable due to future flood risk by restricting development in areas that are subject to projected future flood risk while recognizing

Appendix 5.1 (Continued)



that a small number of such properties might have, as noted above, acquired vested rights from the Province's earlier approval process. Please note that the approach also includes an option to increase grade outside any required buffer setback in order to mitigate identified flood risk, further reducing the number of properties that might fall within this scenario.

- We note that the Legacy Lands status is not automatically applied to all properties that might otherwise be undevelopable but rather only those where vested rights to develop can be proven.
- Unless the Province has changed its approach to one where it provides legal advice to municipalities on municipal planning documents, we are not comfortable ignoring the advice that we have already sought on this matter.
- Further, given the assurance at the May 9th meeting that no official plan and bylaw amendments would be required until after ministerial approval has been granted and at such a time as the Municipality is in the process of opening up the Plan or Bylaw for other amendments, we would respectfully request that our ongoing discussions on this matter not result in another delay in an approval process that was initiated in October 2022 when we first submitted our package for ministerial approval.

3. Development Agreements for Development on Private Roads

- While we take the Province's point about naming the Province in the current bylaw text, the required acknowledgement on the part of the property owner is simply a reflection of fact and does not seek to prohibit the Province or bind the Province from providing services on existing private roads in any way. The approach in the Bylaw simply requires the developer to acknowledge this fact, in anticipation of a long-standing problem associated with property owners on private roads seeking to

Appendix 5.1 (Continued)



have government (both provincial and municipal) maintain and upgrade private roads. One has only to do a quick search of media over the last year to understand how prevalent confusion is as to the responsibility to maintain seasonal and private roads.

- Alternate language for this provision is available, but we would argue that amending this particular provision prior to ministerial approval is not necessary and would cause unnecessary financial and timing burden on the Municipality, given that lack of actual harm that would be created by the current wording. Further, section 5 of the *Municipal Government Act* already provides guidance on the lack of effect of an inconsistency between a municipal bylaw and an enactment, meaning that if this provision is found to be ultra vires, it simply has no effect until it is amended. To that end, we offer that approval of the Municipality's Official Plan and Bylaw could proceed with the understanding that the provision would be modified on the first occasion of the Municipality proceeding with a bylaw amendment.
- The option identified in the letter that the Municipality can simply hold a public meeting on the amendments identified by the Province is dismissive of the fact that that the amendment process will add two to three months to a process that has both already taken an unreasonable amount of time and included a significant amount of discretionary over-reach on the Province's part, further delaying the time before which this Official Plan and Bylaw can be approved, as well as a significant cost relating to advertisements and public meeting expenses, a large burden for the Municipality. Further, while the Province may suggest that the items identified for amendment are the only ones that would need to be discussed and debated, in practical terms, such a public meeting would inevitably exacerbate existing disagreement on the Municipality's Official Plan and Bylaw. Again, we are seeking

Appendix 5.1 (Continued)



written confirmation of the position expressed on May 9th that any such amendments can wait until after the Plan and Bylaw are approved.

4. Other Matters

- A discussion with provincial representatives on November 10, 2021, identified a number of points regarding transition and process, including the status of files open with the Province at the time of transfer of planning jurisdiction and the (digital) transfer of historical files currently held by the Province that would provide required information regarding prior approvals. A copy of this record of discussions is attached as Appendix 2.
- As the Province changed its position regarding the status of open files while our plan development process was underway, we continue to seek clarity from the Province regarding the anticipated post plan approval status, in particular, of subdivisions for which preliminary approval has been granted by the Province.
- With regards to transition and access to historical data to aid the Municipality in assuming planning responsibility, to date the only data provided by the Province has been database extraction(s) providing summary information of recent subdivision and permit applications. Little, if any, ongoing updates on new applications and approvals has been communicated. No historical information has been provided.
- As noted above and during our meeting on May 9th, the Municipality has been waiting since October 2022 for ministerial approval on documents that were created with the Province's full awareness, and which, as noted in the opening summary by the original provincial reviewer, meet the requirements of the *Planning Act* and regulations. Such an unprecedented delay in approval has become frustrating to our council, to say the least, and we find ourselves in a position of having to consider exploring other options and remedies, including consideration as to the applicability

Appendix 5.1 (Continued)



of the *Judicial Review Act*. It remains our hope, however, that a timely solution can be found.

Once again, we thank you for having taken the time to meet with us and we would respectfully request another opportunity to meet in person to discuss the above matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen Smith-MacPhail".

Helen Smith-MacPhail

Mayor of the Rural Municipality of West River

cc:

Peter Bevan-Baker, MLA New Haven-Rocky Point

Deputy Minister Jamie MacDonald

Glenda MacKinnon-Peters, FEC, P.Eng., Director of Land

Eugene Lloyd, Acting Manager - Provincial Planning

Danny Jenkins, Manager of Municipal Affairs

Jennifer MacLaren, Planner- Land Division

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Appendix A: Areas of Provincial Interest and the Municipality's Planning Documents

Provincial Interest	Municipal	Provincial Standard
(h) the effect of proposed planning development on, and measures for the protection of, public health and safety;	<p>Addressed through lot size standards, public road requirements, policies for emergency management and subdivision design, policies for emergency response.</p> <p><u>Official Plan policies:</u> CI-2, CI-3, CI-4, TI-1, TI-2, TI-3, R-1, R-4, CS-1, CS-2, EN-3, EN-10, PHY-3, PHY-6</p>	<p>Province-wide Minimum Development Standards Regulations (PWMDSR),</p> <p>Subdivision & Development Regulations (SDR)?</p>
(i) the protection of viewscapes that contribute to the unique character of Prince Edward Island;	<p>No significant or unique viewscapes have been identified. By directing the larger subdivisions to a particular zone and promoting clustering, the Municipality can begin to protect the rural landscape generally.</p> <p><u>Official Plan policies:</u> R-1, PHY-3, PHY-7, PHY-9</p>	<p>No viewscapes have been identified outside of one or two Special Planning Areas (most notably the Princetown Point-Stanley Bridge SPA), and the PWMDSR and SDRs include no provisions regarding the upper limit of lots, ribbon development, or directing lots to specific areas.</p>
(k) the direction of development to areas designed to support servicing;	<p>The Official Plan and Bylaw are based on the underlying premise of seeking to limit large scale developments except through changes in zoning with policies about rural character, in order to reduce the amount of on-site serviced suburban sprawl and to direct such development to urban areas with servicing.</p> <p><u>Official Plan policies:</u> R-1, R-2, R-3, R-4, R-5, CI-1, PHY-8</p>	<p>Nothing explicit in place</p>

Appendix 5.1 (Continued)

Provincial Interest	Municipal	Provincial Standard
(l) the orderly and sustainable development of safe and healthy communities	<p>This principle is embedded throughout the Background Report, the Official Plan, and the overall future development concept, as well as being one of the primary considerations upon which the Bylaw standards were based.</p> <p><u>Official Plan policies:</u> R-1, R-2, R-3, R-4, R-5, CI-1, PHY-8</p>	A small number of references in the SDRs, with no measurable criteria established in policy.
(m) the adequate provision of a full range of housing	<p>Background Report section 4.1. Sections 2.5, 2.6 of the Official Plan</p> <p><u>Official Plan policies:</u> R-1, R-2, R-3</p>	
(p) the adaptation of the built and natural environment to address the effects of climate change;	<p>The Official Plan and Bylaw include extensive coverage of built and natural hazards to address climate change adaptation.</p> <p>Part 4.4.4 of OP</p> <p><u>Official Plan policies:</u> CS-2, PHY-5</p>	
(q) the mitigation of greenhouse gas emissions;	<p>Background Report section 6.3. Sections Part 4.4.4 of the Official Plan</p> <p><u>Official Plan policies:</u> PHY-3, PHY-4</p>	

Appendix 5.1 (Continued)



Appendix B:

Notes – Transition Discussion with Province, November 10, 2021

Attendees: Province: Eugene Lloyd, Danny Jenkins, Alex O’Hara, Peter Johnston. West River: Sharon Slauenwhite, Laala Jahanshahloo, Samantha Murphy, Mitch Underhay

Challenge: Confusion around process, who has jurisdiction, and what happens after transfer

Potential solutions include:

- Clear, consistent guidelines explaining the process, publicized by Province and municipality
- Municipality to publish Info package online and at all community halls
- Province to give same info package to all applicants.
- Option to explore: Job shadowing of provincial development officers (SSOs) by new municipal development officer

Challenge: Inundation of applications to Province prior to transition creating a major backlog

Potential solutions include:

- Clear and open communication with the municipality to identify ahead of time regarding the volume and specific nature of open applications that will remain under provincial jurisdiction.
- Option to explore: Temporary bringing on of new municipal development officer on contract to assist Province with open application, to facilitate and enhance potential job shadowing and understanding of different processes while addressing backlog.

Challenge: Partially complete subdivision applications conflict with the new Plan and Bylaw

Potential solutions include:

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Appendix 5.1 (Continued)



- Preliminary approval with Province remains valid for 24 months, during which time final approval of the subdivision would rest with the Province.
- Applications at any stage submitted to Province before transition date are processed in accordance with provincial regulations.
- All parties acknowledge that there may be applications from the distant past that might not have been subject to an expiry date that may come up. These could be addressed through the 2016 bill to amend the Planning Act, but at any rate, ongoing and open dialogue between the Province and the municipality will be key. The parties acknowledge that some aspects of acquired rights will need to be respected but that there may be limits on how much those applications are protected from new standards (ie, undersized lots might be required to involve an engineered septic system, subdivisions with no established (ie used) private roads may be required to build new roads to a minimum standard for private roads).
- West River's bylaw will establish standards for legal non-conformance, including for applications underway. This protection could apply to lots that don't meet new municipal standards for lot size, number of lots, and required servicing (ie private roads) but will be subject to discussion through the municipal plan development process. Where council has any discretion regarding what will be protected, decisions will be made at that level through the plan policies and bylaw, by Council.
- Further discussion is warranted regarding how future uses and developments proposed at the time of subdivision will or will not be protected under the coming plan and bylaw, particularly where those uses may not be permitted under the new zoning. See note below about Province seeking clarity on when specific rights might be acquired or lost through transition – this potential impact on future permitted uses would then be communicated by the Province to applicants as they make application. Ongoing and open dialogue between the Province and the municipality and consulting team will be critical.
- Province will seek to proclaim the 2016 bill amending the Planning Act in order to trigger the expiry of incomplete and open applications.

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Appendix 5.1 (Continued)



Challenge: Knowledge sharing of applications under review and historical files by Province at the time of transition

Potential solutions include:

- Explore option of job shadowing of provincial development officers (SSOs) by new municipal development officer.
- Explore: summer student to digitize older files
- Explore: transfer of hard copy files to municipality

Ongoing Dialogue:

- Province is still waiting to hear from FOIPP regarding the information that can be shared with the Municipality.
- The Municipality is requesting that there be ongoing dialogue and notice on the applications and approvals received and issued by the Province – this will both assist in the preparation for any potential conflicts with the new planning framework and provide Council and Planning Board with information on matters that take place within the Municipality's boundaries over the interim period, particularly matters of sensitivity that the public may bring to Council for response or information.
- Possibility of monthly summary of approvals, or monthly update meeting between the parties?

Transition Process:

- Province could adopt a special planning area (SPA) with limited approvals permitted within the Municipality to function as a brake on speculation until jurisdiction is transferred to West River. Uncertainty as to whether an Act amendment would be required in order to permit a simple provincial moratorium on applications until transfer.
- West River Council has opted not to adopt an interim plan and interim bylaw.

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Appendix 5.1 (Continued)



- Province will seek to address the resources needed to review the new plan and bylaw with reasonable efficiency once submitted for Ministerial approval, potentially including a pre-review of drafts prior to Council approval.
- All applications received prior to the Minister's approval of the new plan and bylaw will continue to be processed by the Province under the provincial subdivision and development regulations. This includes all permits and applications for preliminary and final approval of subdivision (and consolidation). Applications for final subdivision approval received after the Minister's approval of the plan and bylaw will be treated as a continuation of the prior subdivision approval process and would be processed by the Province, in consultation with the Municipality for full awareness of any implications for the Municipality.
 - **Note:** should the 2016 bill to amend the Planning Act be proclaimed, particularly prior to the transfer of jurisdiction, there would be a sunset period on open applications. Advance public notice (ads, etc) on the part of the Province is strongly recommended.
 - Can the Province seek clarity on when applications acquire the right to be addressed under provincial regulations rather than the municipal plan and bylaw (ie, indication of intent to apply or incomplete application submitted vs complete application received)?
- New applications, except those noted above, received after the Minister's approval of the new plan and bylaw will be processed by the municipality. This includes development permits for development on lots that were approved by the Province under provincial standards. Such lots will be treated as legal non-conforming lots but all development on those lots would be subject to the municipality's standards, to the greatest degree reasonable – zoning in place would apply, the municipality's development standards such as setbacks, height, etc. would apply.
 - **Note:** if there are expected to be subdivisions or developments approved that involve a use that might not be a permitted use under the zoning framework being developed by the municipality, it will be critical that discussions are held with the municipality and the municipality's consulting team in advance to identify strategies to address these situations after transfer of jurisdiction.

Appendix A- Motion 2023-48



Official Plan & Bylaw

Estimate: Excavation Pit Administration Add-on

May 1, 2023
Rural Municipality of West River
PO Box 309, Cornwall, PE, COA 1H0
c/o Laala Jahanshahloo,
Chief Administrative Officer

Dear Ms. Jahanshahloo:

Please find below an estimate for an add-on component to the Official Plan and Bylaw project that would involve the development of the components to support the administration of applications for excavation pits permits and permit renewals. This work through SJ Murphy Planning and Consulting would involve consulting with subject matter experts as I deem appropriate or required. The components of this project would include:

- Forms and Checklists
- Process flows
- Waivers and other specific language or content requirements
- Templates

My estimate for the level of effort and associated costs, including any subcontracting or consultation with subject matter experts, is as follows:

Fees (including subject matter experts)	\$6,875.00
Fixed rate disbursements/ Administration and Handling (5%)	\$343.75
Subtotal	\$7,218.75
HST	\$1,082.81
Total	\$8,301.56

Considerations and Terms

As this work will involve research and the development of new resources, providing an exact figure for the cost is challenging, but I propose the above as an upper limit and would consult with the municipality should I find that there would be difficulty in completing the work within the level of effort and cost set out above. Work would be billed based on the actual level of effort dedicated to this project. The municipality be responsible for all expenses incurred by SJ Murphy Planning & Consulting associated with the project and any expenses outside of fees would be billed at cost.

It would be understood that the tools provided would not remove the general responsibility of the municipality to seek legal or other professional advice in relation to specific situations.

Should you have any questions on any of the above or would like to discuss in further detail, please do not hesitate to reach out.

Respectfully submitted,

Samantha Murphy, RPP, LPP, MCIP
SJ Murphy Planning & Consulting



Appendix 5.2



May 25, 2023

Dear Honourable Minister Steven Myers,

I want to commend you for your recent election success and for becoming the Minister of Environment, Energy and Climate Action. Your service to the community is significant and very important.

I am writing on behalf of the Rural Municipality of West River to express our concerns regarding an unsightly property located at #698 Rte. 19, Meadow Bank. This unsightly property is an ongoing issue that started before amalgamation in 2020 and was brought to the attention of the former Council of Meadowbank CIC in 2017, also followed by the Interim Council of Rural Municipality of West River in 2021.

The Municipality and residents explored all the possible avenues under the Unsightly Property Act and in the end, no corrective action was taken to solve this problem. Presently this property has created an environmental risk.

There are vehicles and a motorcycle parked on this property which has not moved for more than 5 to approximately 10 years or more. These vehicles could, if not already, pose a threat to the groundwater where the surrounding residents are on well water, and also now become a haven for rodents and other pests. This unsightly property has and is having a definite effect on the surrounding properties' values.

We respectfully ask that proper consideration and attention be given to this matter and await your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen Smith-MacPhail".

Helen Smith-MacPhail

Mayor of the Rural Municipality of West River

cc:

Mark McLane, MLA Cornwall and Meadowbank

Peter Bevan-Baker, MLA New Haven-Rocky Point

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